

## Message Text

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ACTION EUR-12

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-04 H-02 INR-07 L-03

NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06 SAJ-01

SAM-01 IO-11 EB-07 /079 W  
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R 230930Z JAN 76

FM USMISSION USBERLIN

TO AMEMBASSY BONN

INFO AMEMBASSY BERLIN

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

USMISSION NATO

SECSTATE WASHDC 1894

C O N F I D E N T I A L SECTION 1 OF 2 USBERLIN 0124

E.O.11652: GDS

TAGS: PGOV, PFOR, WB, GE, GW

SUBJECT: TIR CONVENTION IN BERLIN TRAFFIC--MORE  
GDR THIRD STATE THEORY?

1. SUMMARY: GDR HAS NOTIFIED SENAT OF ITS  
WILLINGNESS TO APPLY TIR CARNET PROCEDURES TO  
BERLIN COMMERICAL TRAFFIC WITH EFFECT FROM  
JANUARY22. WHILE THESE PROCEDURES WOULD HAVE NUMBER  
OF PRACTICAL BENEFITS FOR BERLIN, PART OF GDR'S  
PROPOASL IN MAKING DIRECT NOTIFICATION IS APPARENTLY  
TO ADVANCE THIRD STTE THEORY WHILE CUTTING OUT FRG  
WHICH HAS NEGOTIATED BOTH FRG-GDR TRAFFIC TREATY  
AND TRANSIT TRAFFIC AGREEMENT ON BERLIN'S BEHALF.  
WE UNDERSTAND THATSENAT HAS REFERRED SUBJECT TO FRG  
WHICH MAY RAISE IT IN BONN GROUP. END SUMMARY.

2. SENAT HAS GIVEN US COPY OF TELEX SENATOR FOR  
ECONOMICS RECEIVED JANUARY 16 FROM GDR DEPUTY MINISTER  
OF TRANSPORT STATING AS FOLLOWS:  
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BEGIN TEXT: I WISH TO INFORM YOU ON BEHALF OF THE DGR

GOVERNMENT THAT THE GDR GOVERNMENT IS PREPARED TO APPLY THE PROVISIONS OF THE CUSTOMS CONVENTION ON INTERNATIONAL GOODS TRANSPORT WITH TIR CARNETS (TIR CONVENTION) OF 15 JANUARY 1959 TO GOODS TRAFFIC FROM AND TO BERLIN(WEST) FROM THE 22ND OF JANUARY 1976. THE GOVERNMENT OF THE GDR EXPECTS THAT THE SENAT WILL GUARANTEE THE OBSERVANCE OF THE PROVISIONS OF THIS CONVENTION IN THE SAME MANNER AND WILL TAKE CARE THAT IN ACCORDANCE WITH THE QUADRIPARTITE AGREEMENT OF 3 SEPTEMBER 1971 THE DESIGNATION " BERLIN(WEST)" WILL BE PLACED IN ALL NECESSARY CASES IN THE TIR CARNET DOCUMENTS. THE BORDER CUSTOMS OFFICES DREWITZ AND STAAKEN MAY BE USED AS TIR CUSTOMS CLEARANCES POINTS ON THE STATE BORDER BETWEEN THE GDR AND BERLIN(WEST). END TEXT.

3. WE DO NOT YET KNOW IF GDR SENT PARALLEL COMMUNICATION TO FRG AS IT DID LAST MONTH WITH ENTRANCE INTO FORCE OF HEALTH AGREEMENT. TIR CONVENTION HAS FAIRLY COMPLEX INNER-GERMAN HISTORY, HOWEVER. ADDRESSEES WILL RECALL THAT ARTICLE 28 OF 1972 GENERAL TRAFFIC TREATY BETWEEN FRG AND GDR PROVIDES THAT TIR CONVENTION WILL BE APPLICABLE FOR TRANSPORT OF GOODS BY ROAD BETWEEN FRG AND GDR OR BETWEEN EITHER FRG OR GDR AND THIRD STATE PASSING IN TRANSIT OVER TERRITORY OF OTHER PARTY TO TRAFFIC AGREEMENT. PROTOCOL NOTE PROVIDES, HOWEVER, THAT ARTICLE 28 WILL BE SUSPENDED UNTIL BOTH GERMAN STATES HAVE BECOME PARTY TO TIR CONVENTION.

4. ALTHOUGH GENERAL TRAFFIC TREATY DOES NOT CONTAIN BERLIN CLAUSE AS SUCH, FRG NEGOTIATOR BAHR MADE FOLLOWING DECLARATION AT CONCLUSION OF NEGOTIATION:  
BEGIN TEXT: THE FRG WILL REGULATE IN THE FRAMEWORK OF ITS LEGISLATIVE AUTHORITY THE APPLICATION OF THE TRAFFIC TREATY TO BERLIN(WEST) IN ACCORDANCE WITH THE QUADRIPARTITE AGREEMENT. END TEXT. BAHR ELABORATED UPON THIS WITH THE FOLLOWING STATEMENT AT THE SUBSEQUENT SIGNING CEREMONY:  
BEGIN TEXT: I CONFIRM THE EXISTING UNDERSTANDING THAT THE PROVISIONS OF THE TREATY BETWEEN THE FRG AND THE GDR  
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ON TRAFFIC QUESTIONS OF MAY 26, 1972 ARE TO BE EXTENDED TO BERLIN (WEST) IN ACCORDANCE WITH THE QUADRIPARTITE AGREEMENT OF 3 SEPTEMBER 1971 NATURALLY UNDER THE PREREQUISITE THAT THE OBSERVANCE OF THE TRAFFIC TREATY WILL BE GUARANTEED IN BERLIN (WEST). THE FRG WILL IN THE FRAMEWORK OF ITS LEGISLATIVE AUTHORITY REGULATE THE APPLICATION OF THE TRAFFIC TREATY TO BERLIN IN THE NORMAL PROCEDURE TAKING INTO ACCOUNT THE PROVISIONS OF

THE QUADRIpartite AGREEMENT. END TEST.

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NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15 USIA-06 SAJ-01

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TO AMEMBASSY BONN  
INFO AMEMBASSY BERLIN  
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AMEMBASSY PARIS  
USMISSION NATO  
SECSTATE WASHDC 1895

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5. GDR NEGOTIATOR KOHL RESPONDED WITH FOLLOWING  
STATEMENT:

BEGIN TEXT: I WISH TO STATE IN CONNECTION WITH THE  
SIGNING OF THE AGREEMENT THAT THE PROVISIONS OF THE  
TREATY ARE TO BE EXTENDED TO BERLIN(WEST) IN ACCORDANCE  
WITH THE QUADRIpartite AGREEMENT SUBJECT TO THE  
PREREQUISITE NATURALLY THAT THE OBSERVATION OF THE  
PROVISIONS OF THE TRAFFIC TREATY IS GUARANTEED IN  
BERLIN(WEST). END TEXT.

6. WE UNDERSTAND FROM SENAT THAT GDR BECAME PARTY TO  
TIR CONVENTION ONLY RECENTLY. WHEN IT DID SO IT  
APPARENTLY PROTESTED THAT PREVIOUS FRG STATEMENT THAT  
CONVENTION ALSO APPLIED TO BERLIN WAS CONTRARY TO  
QA. PRESENT COMMUNICATION TO SENAT WOULD APPEAR TO BE  
EFFORT TO ESTABLISH AS BASIS FOR APPLYING TIR CARNET  
PROCEDURES TO BERLIN TRAFFIC A BILATERAL COMMUNICATION  
BETWEEN GDR AND SENAT IN WHICH SENAT WOULD EXPRESS TO  
GDR ITS GUARANTEE THAT IT WILL FOLLOW PROVISIONS

OF CONVENTION. AT FIRST GLANCE THIS WOULD APPEAR TO BE  
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A DOUBLE ASSAULT ON FRG'S RIGHT TO REPRESENT BERLIN'S  
INTEREST INTERNATIONALLY. GDR WOULD BOTH BE DENYING  
VALIDITY OF FRG'S EXTENSION OF TIR CONVENTION ITSELF  
TO BERLIN AND INDICATING THAT IT INTERPRETS BERLIN  
STATEMENTS IN CONNECTION WITH INNER-GERMAN TRAFFIC  
TREATY AS ENTITLING IT, NOT FRG, TO TAKE STEPS  
TO OBTAIN GUARANTEE THAT BERLIN WILL ADHERE TO TREATY'S  
PROVISIONS. ACTUALLY TRAFFIC TREATY WAS EXTENDED TO  
BERLIN IN NORMAL WAY AFTER ALLIED KOMMANDATURA GAVE  
APPROVAL VIA BK/O(72)11 IN OCTOBER 1972, AND TIR CONVENTION  
HAS BEEN IN FORCE FOR FRG AND BERLIN SINCE 1962.

7. FURTHER PROBLEM ON WHICH SENAT HAS SOUGHT FRG VIEWS  
IS GDR DESIRE THAT "BERLIN(WEST)" BE ENTERED ON ALL  
TIR DOCUMENTATION AS COUNTRY OF ORIGIN INSTEAD OF  
"FRG."

8. COMMENT: FRG MAY WELL WISH TO RAISE THESE QUESTIONS  
IN BONN GROUP FOR ALLIED VIEWS. WITH RESPECT TO THIRD  
STATE ASPECTS OF GDR COMMUNICATION, WE WOULD ASSUME  
THAT SENAT WILL WISH TO HAVE FRG RESPOND ON ITS BEHALF  
PURSUANT TO ITS REPRESENTATION OF CITY'S INTEREST  
UNDER BOTH TIR CONVENTION AND TRAFFIC TREATY. COUNTRY  
OF ORIGIN DOCUMENTATION REQUIREMENTS OF TIR CONVENTION  
MAY BE TOUGHER NUT TO CRACK BUT "BERLIN(WEST)"  
DESIGNATION OR SOME VARIANT LIKE "D" FOR "DEUTSCHLAND"  
CONCEIVABLY COULD BE EASIER TO ACCEPT IF FRG'S RIGHT  
TO REPRESENT BERLIN'S INTERESTS UNDER TREATY IS CONFIRMED.  
WE HAVE NOT YET LEARNED ENOUGH ABOUT DOCUMENTS IN  
QUESTION AND PRESENT PRACTICE, HOWEVER, TO FORM SOLID  
JUDGMENT.

9. ONE FURTHER POINT ON WHICH WE WILL BE ATTEMPTING  
TO ELICIT INFORMATION IS INTENDED RELATIONSHIP OF TIR  
PROCEDURES TO TRANSIT TRAFFIC BETWEEN BERLIN AND FRG.  
THAT TRAFFIC IS COVERED BY TRANSIT TRAFFIC AGREEMENT  
AND QA, NOT BY INNER-GERMAN TRAFFIC TREATY, AND THERE  
ARE SEVERAL STATEMENTS IN DOCUMENTS ASSOCIATED WITH  
SIGNING LATTER TREATY TO EFFECT THAT IT LEAVES TRANSIT  
TRAFFIC AGREEMENT UNAFFECTED. GDR COMMUNICATION  
APPARENTLY LAYS BASIS, HOWEVER, FOR APPLYING TIR CARNET  
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PROCEDURES TO TRANSIT TRAFFIC. WHILE THIS MIGHT  
IVE AN EXTRA GLOSS OF INTERNATIONALISM TO FRG-BERLIN  
TRAFFIC, THAT IN ITSELF WOULD NOT SEEM OBJECTIONABLE  
SINCE ARTICLES IN BOTH QA AND TRANSIT TRAFFIC  
AGREEMENT STATE THAT SUCH TRAFFIC" WILL RECEIVE THE MOST  
SIMPLE, EXPEDITIOUS AND PREFERENTIAL TREATMENT PROVIDED  
BY INTERNATIONAL PRACTICE." FURTHERMORE,HTIR PROCEDURES  
WOULD APPEAR TO BE QUICKER SINCE PURSUANT TO THEM GDR  
CUSTOMS OFFICIALS WOULD MERELY ACCEPT COPY OF CARNET  
RATHER THAN, AS HITHERTO, GOING THROUGH TME-CONSUMING  
PROCEDURE OF WRITING OUT OWN COPY OF MANIFEST. IF  
TIR PROCEDURES ARE EVENTUALLY APPLIED TO TRANSIT TRAFFIC,  
HOWEVER, IT MIGHT BE USEFUL FOR FRG(PERHAPS IN TRANSIT  
COMMISSION) TO MAKE DISCLAIMER THAT ADOPTION OF THESE  
PROCEDURES DOES NOT AFFECT TRANSIT TRAFFIC AGREEMENT  
LEST GDR BE TEMPTED TO ASSERT AT LATER DATE THAT  
BASIS FOR HANDLING TRANSIT TRAFFIC HAS BEEN MOVED  
OUT FROM UNDER QA UMBRELLA.GEORGE

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